

CRIMINAL APPEAL NO. 415 OF 2003

Mr.Nitin Gangal for the Appellant.
Mrs.M.M. Deshmukh, APP for the State.

DATED : OCTOBER 16, 2007

P.C. :-

None appears on behalf of respondent no.2 though he is served. Affidavit of service is taken on record.

2. The applicant is challenging an order passed by the Magistrate dismissing the complaint of the applicant under Section 256 of the Cr.P.C.

3. I have perused the impugned order. Learned Counsel for the applicant has taken me through the Roznama. The complainant was absent on two dates. Normally, discretion is vested in the trial Court under Section 256 and merely that the complainant is absent that by itself cannot be the ground for dismissal of the

complaint.

4. Hence, impugned order is set aside. The complaint is restored to the file. The trial Court may issue a fresh notice to the accused and thereafter, expeditiously dispose of the case.

. Appeal is, accordingly, allowed in the above terms.

(V.M. KANADE, J.)